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# Juveniles

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## Juveniles

### Juveniles; disclosure of names—serious felons

Welfare and Institutions Code § 827.5 (new).  
SBX 31 (Peace); 1994 STAT. Ch. 37X

Under existing law, information regarding court proceedings involving juveniles is confidential and cannot be disclosed by law enforcement agencies.<sup>1</sup> Existing law also sets forth certain exceptions to this confidentiality requirement, enumerating particular circumstances where information regarding juvenile court proceedings can be disclosed.<sup>2</sup> Chapter 37X sets forth an additional exception to

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1. CAL. WELF. & INST. CODE § 827 (West Supp. 1994); *see id.* (providing that documents relating to juvenile court proceedings are confidential and will be made available only to enumerated individuals, including court personnel, the district attorney, the city or prosecuting attorney, the minor and his or her parents, the attorneys, and any others who file a petition approved by the court); *In re Gault*, 387 U.S. 1, 25 (1967) (stating that the confidentiality of juvenile records is a valid part of the juvenile justice system and that each state has the power to establish the confidentiality of records of police contacts and court proceedings related to juveniles); *T.N.G. v. Superior Court*, 4 Cal. 3d 767, 781, 484 P.2d 981, 990, 94 Cal. Rptr. 813, 822 (1971) (stating that the presumption of innocence and the hazard that the information will be misused by third parties fully justifies a court's refusal to disclose information about juvenile detentions); *Westcott v. Yuba County*, 104 Cal. App. 3d 103, 106, 163 Cal. Rptr. 385, 388 (1980) (noting that juvenile records are not subject to the liberal provisions of the Public Records Act and are not required to be made publicly available since the Act is interpreted as general legislation and is thus subordinate to more specific legislation enacted on the same subject); 65 Op. Cal. Att'y Gen. 503, 511 (1982) (finding that a district attorney may not disclose information about a juvenile case to the news media, unless authorized to do so by a juvenile court order); *see also* *Davis v. Alaska*, 415 U.S. 308, 319-20 (1974) (holding that the confidentiality of juvenile records must yield when the constitutional rights of a criminal defendant are at stake); CAL. Cr. R. 1423 (providing for the confidentiality of juvenile court records and specifying guidelines to be used by the courts when allowing for the release or disclosure of such information); *id.* § 1423(a)(1) (defining juvenile court records as all documents filed in a court case); *cf.* MD. CODE ANN., CTS. & JUD. PROC. § 3-828(b) (1989) (providing for the confidentiality of juvenile court records, the contents of which may not be divulged except by order of the court upon good cause being shown). *But see* FLA. STAT. ANN. § 230.335(1)(b) (West 1989 & Supp. 1994) (requiring the court to notify the superintendent of schools of the name and address of any student found to have committed a delinquent act or felony); MD. CODE ANN., CTS. & JUD. PROC. § 3-828(f) (1989) (providing that juvenile records which do not identify the juveniles involved may be used for research purposes and are not protected by confidentiality provisions). *See generally* Allan E. Korpela, Annotation, *Expungement of Juvenile Court Records*, 71 A.L.R.3d 753 (1976) (discussing the elimination of the names of juveniles from legal records).

2. CAL. WELF. & INST. CODE § 676(a)(1)-(25) (West 1984 & Supp. 1994); *see id.* (setting forth the offenses which give rise to public availability of records of court proceedings relating to minors, including, *inter alia*, murder, manslaughter, arson of an inhabited building, specified assaults, drive-by shootings, felony street gang activity, and carjacking); *id.* § 676(d) (West 1984 & Supp. 1994) (providing that specific documents relating to proceedings against minors for enumerated offenses will be made available for public inspection); *id.* § 742 (West 1984) (providing that individuals who are victims of crimes committed by minors have the right to information about the final disposition of the case); *id.* § 828(a) (West 1984 & Supp. 1994) (providing that when disposal of a case warrants it, law enforcement agencies may disclose information related to the taking of minors into custody); *id.* § 828(b) (West 1984 & Supp. 1994) (providing that law enforcement agencies must disclose the name and any descriptive information about the minor if necessary to recapture the minor or protect the public's safety); *see also* CAL. GOV'T CODE § 6250 (West 1980) (providing that access

the confidentiality requirement of juvenile records by authorizing law enforcement agencies to disclose the name of any minor taken into custody for the commission of any serious felony, provided that the records containing such information have not been sealed.<sup>3</sup>

#### INTERPRETIVE COMMENT

In enacting Chapter 37X, the Legislature intends to treat juveniles who have been arrested for serious crimes equivalent to their adult counterparts.<sup>4</sup> Although confidentiality provisions have largely been intended as a source of protection, the Legislature has acknowledged that such protective measures must sometimes yield to measures that address the increasing numbers of juveniles committing serious crimes.<sup>5</sup> By eliminating some of the provisions preserving the

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to information regarding the conduct of the people's business is a fundamental and necessary right of every person); *Brian W. v. Superior Court*, 20 Cal. 3d 618, 623, 574 P.2d 788, 791, 143 Cal. Rptr. 717, 720 (1978) (concluding that vesting judges with the discretionary power to admit persons who have a direct and legitimate interest in those proceedings reflects the legislative purpose of allowing press attendance at juvenile hearings); 65 Op. Cal. Att'y Gen. 503, 511 (1982) (finding that where juvenile court proceedings are open to the public, the district attorney may furnish the news media with whatever information is available to the public at those proceedings in which he or she participates, unless the juvenile court has placed a restriction on the availability of the information).

3. CAL. WELF. & INST. CODE § 827.5 (enacted by Chapter 37X); *see id.* (providing that the provisions of this section are subject to California Welfare and Institutions Code §§ 389 and 781 and California Penal Code § 1203.45, all of which relate to the sealing of juvenile records); *id.* (providing that the definition of serious felony for purposes of this section is contained in California Penal Code § 1192.7(c)); *see also* CAL. PENAL CODE § 1192.7(c) (West Supp. 1994) (defining serious felony and enumerating felonies which are classified as serious felonies); *id.* § 1203.45 (West Supp. 1994) (providing that individuals who committed misdemeanors as juveniles and who meet particular requirements set forth in California Penal Code § 1203.4a may petition the court for an order sealing the records); *id.* §§ 1203.4, 1203.4a (West Supp. 1994) (providing that a defendant can withdraw a plea of guilty or *nolo contendere* and enter a plea of not guilty if certain conditions are fulfilled); CAL. WELF. & INST. CODE §§ 389, 781 (West 1984 & Supp. 1994) (providing that records of a juvenile offender may be sealed by the court if the offender has not subsequently been convicted of a crime involving moral turpitude and has been satisfactorily rehabilitated); *cf.* CONN. GEN. STAT. ANN. § 46b-124(a)(2)(A) (West Supp. 1994) (providing that the identity of a juvenile offender may be released upon written application by the victim which states his or her intention to bring a civil cause of action against the offender); Nan Kim, *Northern Valley Reaches Out to Parents*, THE RECORDER, Mar. 18, 1994, at A1 (discussing legislation introduced in New Jersey that would require law enforcement agencies to disclose to principals, upon request, information about the student's involvement in crimes with which they are charged as well as an automatic disclosure upon conviction).

4. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF SBX 31, at 2 (Apr. 27, 1994); *see T.N.G.*, 4 Cal. 3d at 776, 484 P.2d at 987, 94 Cal. Rptr. at 819 (1971) (holding that the preservation of confidentiality of juvenile court records reflects a legislative judgment that rehabilitation is best served in a confidential atmosphere). *See generally* Bruce E. Fally, Comment, *A Constitutional Right to Avoid Disclosure of Personal Matter; Perfecting Privacy Analysis in J.P. v. Desanti*, 653 F.2d 1080 (6th Cir. 1981), 71 GEO. L.J. 219, 221 (1982) (discussing a court holding that the constitutional right to privacy does not prohibit post adjudication disclosure of the juveniles' social histories).

5. *See Brian W.* at 623, 574 P.2d at 791, 143 Cal. Rptr. at 720 (1978) (providing that the concern for confidentiality of juvenile court proceedings arises from the stigma associated with criminal proceedings that may prove to be a serious handicap later in life); *see also* 65 Op. Cal. Att'y Gen. 503, 509 (1982) (stating that allowing public juvenile proceedings in certain situations reflects a state policy to open the working of the juvenile justice system to greater public scrutiny); *cf.* FLA. STAT. ANN. § 230.335(2) (West 1989) (authorizing a youth court judge to release information to the appropriate school concerning juvenile records of any student

confidentiality of juvenile records, the Legislature is attempting to combat the increasing incidence of juveniles committing serious crimes with an increased ability to identify the offenders.<sup>6</sup>

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when the judge finds that such disclosure is required for the public's safety or for the health or safety of that student or other students in the school). *See generally* Kim, *supra* note 3 (discussing legislation proposed in New Jersey that takes aim at rules which hinder the flow of information about juvenile delinquents and gives educators greater access to criminal records of juveniles).

6. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS of SBX 31, at 3 (Apr. 27, 1994); *see T.N.G.*, 4 Cal. 3d. at 778, 484 P.2d at 987, 94 Cal. Rptr. at 819 (1971) (stating that juvenile courts have exclusive authority over the extent to which juvenile records are released to persons other than those enumerated in California Welfare and Institutions Code § 827). *But see* Wescott v. Yuba County, 104 Cal. App. 3d 103, 109, 163 Cal. Rptr. 385, 390 (1980) (holding that laws pertaining to the confidentiality of juvenile court records are intended to protectively rehabilitate minors). *See generally* Note, Martin v. Strasburg, *Constitutional Law: Justice for Juveniles? The Second Circuit Declares Preventive Detention Statute Unconstitutional*, 50 BROOK. L. REV. 517, 520 (1984) (discussing the changes occurring in the juvenile justice system over the past decade and the reform legislation that has been enacted, including measures which allow the public greater access to juvenile records); Kim, *supra* note 3, at A1 (discussing proposed legislation that increases the availability of information about juvenile offenders and is intended to address the surge in violent crimes being committed by juveniles).